

REMARKS

Claims 22-26 are currently pending in the application. Only claim 22 is in independent form.

Restriction to one of the following inventions was required under 35 U.S.C. § 121:

- I. Claims 1, 8, 9, 14, 18-21, drawn to a method of making a hose, classified in class 156, subclass 149.
- II. Claims 22-26, drawn to a hose, classified in class 138, subclass 123.

During a telephone conversation a provisional election was made with traverse to the claims of Group II, claims 22-26. Applicants hereby provisionally elect Group II, claims 22-26 for prosecution purposes, with traverse. Applicants hereby conditionally withdraw claims 1, 8, 9, 14, 18-21 for prosecution, without prejudice, and request reconsideration of the restriction requirement.

Applicants traverse the restriction requirement based on the following grounds. It is respectfully submitted that the restriction requirement practice was established to promote efficiency of prosecution in the Patent Office. Both groups of claims relate to a hose assembly and methods of making the same. It is respectfully submitted that examination of all the claims in a single application would be efficient, thereby promoting the grounds for the establishment of the restriction requirement practice.

Hence, it is respectfully submitted that restriction should not be required and that applicants have traversed the restriction requirement. However, as stated above, applicants have elected the claims of Group II and provisionally withdraw claims 1, 8, 9, 14, 18-21, without prejudice, pending reconsideration of the restriction requirement.

Claims 22-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over E.P.439898. Reconsideration of the rejection is respectfully requested.

The Office Action states that the reference taught that one skilled in the art would have to provide a hose with a braided glass fiber thereon. Prior to the application of the glass fiber on to the tubing, the reference suggested that one skilled in the art would have applied a fluoropolymeric dispersion onto the glass fibers employed in the braid. By performing this step, the finished tubing was provided with a dispersion which completely coated and embedded in the glass fiber braid disposed about the extruded tubing. The Office Action states that while the pending claims at hand recite two separate dispersion coating operations, there is no reason to believe that the product produced by this process would have been any different from the product made by E.P.'898. However, it is respectfully submitted that the method of the presently pending independent claims does provide a very different product that which would be found using the E.P. method.



As stated in the attached Affidavit of Normal Martucci, one of the co-inventors of the present invention skilled in the art of making such devices and the methods of making the same, the "double dip" method (method of the present invention) provides results that were unexpected over the results obtained by the "single dip" method as disclosed in the E.P. patent. Mr. Martucci states that the "single dip" method produced a higher bond strength between the fiber glass outer braid and the Teflon inner tube while the "double dip" method unexpectedly produced less variation in the strength of the bond and was more flexible than the "single dip" hose. Hence, the "double dip" method and device provided results different from those obtained by the "single dip" method and resulting device. Such results are not at all disclosed or even suggested in the reference. Hence, these results are *de facto* unexpected results.

Moreover, as testified to in the attached Martucci Affidavit, it is the unexpected different results obtained by the "double dip" method of the present invention that was most desirable to the auto industry. It is the "double dip" method that has become the significant commercial embodiment between the two inventions. That is, for fuel line hoses, the automobile industry favored the lesser variation of strength of the bond and more flexibility obtained by the present invention than by the "single dip" hose. Hence, applicants present herewith factual evidence of unexpected results of the present invention over the most pertinent prior art cited, as well as commercial success based upon those unexpected results.

Additionally, as is shown in the attached information provided by Chrysler, Ford, and GM, less variation is in fact of substantial significance. There are specific procedures that must be followed prior to accepting new processes by these motor companies. More specifically, while the use of the "single dip" method which has a higher standard deviation is allowed, there is no indication that using the "double dip" method would provide less variation in the strength of the bond and also provide more flexibility. Therefore, there is no indication that by merely adding additional material, as in the "double dip" process that the new hose will be more flexible or have less standard deviation. Instead, in order for the motor companies to utilize this material, it must pass through a series of tests and be provided with sufficient data to meet the statistical process control standards. The statistical data requirements and the testing that is done is included in the attached material from the motor companies. This material also provides support for the allegation of additional commercial success. Since the "double dip" process has less standard deviation and is more flexible, it is more likely to be used by the major motor companies because it will pass the more stringent quality control standards. Given this explicit teaching, there is no disclosure or suggestion for the use of a "double dip" process which creates less standard deviation with greater flexibility in a hose assembly.

Claims 23 and 24 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Office Action states that claims 23 and 24 recites that the dispersion is selected from the group consisting of a "fluorocarbon polymer...", however, the independent claim 22 recited that the dispersion comprised a fluorocarbon polymer. It is therefore suggested that the phrase "fluorocarbon polymer" be removed from claim 22. Accordingly, in order for further prosecution, the claim has been amended to remove such language. Reconsideration of the rejection is respectfully requested.

The remaining dependent claims not specifically discussed herein are ultimately dependent upon the independent claims. References as applied against these dependent claims do not make up for the deficiencies of those references as discussed above, the prior art references do not disclose the characterizing features of the independent claims discussed above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

In view of the present amendment and foregoing remarks, reconsideration of the rejections and advancement of the case to issue are respectfully requested.

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The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

KOHN & ASSOCIATES

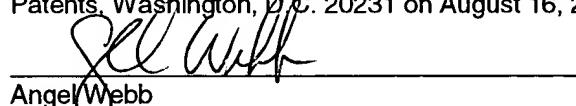


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on August 16, 2001.



Angel Webb

VERSION WITH MARKINGS TO SHOW CHANGES MADE

CLAIMS:

22. A hose assembly comprising:
an inner tubular liner (12) of a fluorocarbon polymer;
a dispersion comprising a [fluorocarbon polymer] material applied to said inner liner (12);
a braided layer (13) positioned about the inner liner (12) whereby said dispersion prevents relative movement of the braided layer (13) to the inner liner (12); and
a second dispersion comprising a [fluorocarbon polymer] material applied to said braided layer (13).